
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-02-NY-124
)	
Gateway Security Systems, Inc.)	NAL/Acct. No. 200232380003
Jamaica, NY)	
)	FRN: 0007-1609-22

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: August 19, 2002

By the District Director, New York Office, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Gateway Security Systems, Inc., has apparently violated Section 301 of the Communications Act of 1934 ("Act"),¹ as amended, by operating a repeater station on 464.0375 MHz and portable radio transmitting equipment on 469.0375 MHz. We conclude that Gateway Security Systems, Inc., is apparently liable for forfeiture in the amount of ten thousand dollars (\$10,000).

II. BACKGROUND

2. On May 23, 2002, the FCC New York Office, received a complaint of interference affecting the frequency pair 464.050/469.050 MHz, from a FCC licensed user.

3. On May 24, 2002, Commission agents using direction finding techniques positively located the source of the interference to Gateway Security Systems, Inc., at Terminal #4, JFK International Airport, Jamaica, NY. The agents determined that Gateway Security Systems, Inc., operated a repeater station on 464.0375 MHz and portable transceivers on 469.0375 MHz. There was no evidence of a Commission authorization for this operation in Jamaica, NY.

4. On May 30, 2002, the New York Office sent a Warning Letter for unlicensed operation, by First Class and Certified Mail Return Receipt Requested, to Gateway Security Systems, Inc. The New York Office did not receive a reply to the Warning Letter.

III. DISCUSSION

5. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license granted under the provisions of the Act.

¹ 47 U.S.C. § 301.

6. Based on the evidence before us, we find that Gateway Security Systems, Inc., operated radio transmission equipment on 464.0375 and 469.0375 MHz on May 24, 2002, without a Commission authorization in willful² violation of Section 301 of the Act.

7. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), *recon. denied*, 15 FCC Rcd 303(1999) ("*Forfeiture Policy Statement*")³, sets the base forfeiture amount for operation without an instrument of authorization at \$10,000. In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act,⁴ which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case and applying the inflation adjustments, we believe that a ten thousand dollar (\$10,000) monetary forfeiture is warranted.

IV. ORDERING CLAUSES

8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act⁵ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules⁶, Gateway Security Systems, Inc., is hereby NOTIFIED of their APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willfully violating Section 301 of the Act.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Gateway Security Systems, Inc., SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200232380003 and FRN: 0007-1609-22.

11. Any response to this NAL must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. 200232380003.

² Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

³ 47 C.F.R. § 1.80.

⁴ 47 U.S.C. § 503(b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, and 0.311.

Federal Communications Commission

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivable Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

14. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail Return Receipt Requested to Gateway Security Systems, Inc., Building 14 – Second Floor, JFK International Airport, Jamaica, NY 11430.

FEDERAL COMMUNICATIONS COMMISSION

Daniel W. Noel
District Director
New York Office

⁷ See 47 C.F.R. § 1.1914.